

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

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|----------------------------------|---|---------------------------------------|
| JAMES LEROY TYREE, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | Civil Action No.CV04-S-0774-NE |
| |) | |
| CAPTAIN PATRICK ROBINSON, |) | |
| LIEUTENANT JIM GATES, and |) | |
| SERGEANT BRIAN WATERS, |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM OF OPINION


The magistrate judge filed a report and recommendation on May 23, 2005, recommending that the defendants' motion for summary judgment be granted and this cause be dismissed with prejudice. On May 23, 2005, the magistrate judge denied plaintiff's motion to add an additional defendant and new claims as untimely, and the magistrate judge also denied the plaintiff's request to reconsider that denial. The plaintiff has filed objections to the report and recommendation.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the objections filed by the plaintiff, the Court is of the opinion that the magistrate judge's report is due to be, and it is hereby ADOPTED and his recommendation is ACCEPTED. The Court expressly finds that there are no genuine issues of material fact and that the defendants are entitled to judgment as a matter of law. Accordingly, defendants' motion for summary

judgment is due to be granted and this action is due to be dismissed with prejudice.

A Final Judgment will be entered.

DONE this 12th day of July, 2005.



United States District Judge